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26M2/1005

HARVEY, J.
EXAMINER

ART UNIT PAPER NUMBER

2602

7

DATE MAILED:

10/05/94

This is a communication from the examiner in charge of your application:
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 6/16/94 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3(4 mo) month(s), days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☒ Notice of Art Cited by Applicant, PTO-1449. 5, 6
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

Part II SUMMARY OF ACTION

- ☒ Claims 1-52 are pending in the application.
Of the above, claims are withdrawn from consideration.
- ☐ Claims have been cancelled.
- ☐ Claims are allowed.
- ☒ Claims 1-52 are rejected.
- ☐ Claims are objected to.
- ☐ Claims are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on . Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on , has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed , has been ☐ approved; ☐ disapproved (see explanation).
- ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. ; filed on .
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

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1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

2. Claims 1-52 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1) Claim 1 is incomplete because the claim fails to relate the recited steps of "receiving" and "storing" of lines 7, 15, and 16 to the recited steps of "inputting" and "communicating" of lines 8-10 and 17-19. Being such, it is not clear how all of the recited steps cooperate so as to comprise the method set forth in the preamble of the claim (i.e. lines 1-6).

2) In claim 1, line 9, the label "scheduled" is indefinite because a step for scheduling has not been recited.

3) In claim 1, lines 15 and 16, the term "selected scheduled units of said television programming received by said station" is indefinite because steps for "selecting" and "scheduling" said received programming having not been previously recited (i.e. the term has no antecedent basis).

4) In claim 1, line 17, the term "each scheduled unit" is indefinite because it is not clear if it refers back to the "units" recited in line 9, to the "units" recited in line 15, or to some other type of units.

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5) In claim 1, lines 3 and 4, the statement "one of a local programming source and" is confusing and should be deleted in view that the body of claim 1 (i.e. line 7) explicitly requires at least a "remote source". Being such, the recitation of the "local programming source" adds nothing but confusion to the claim.

6) In claim 5, line 3, "one of a local programming source and" should be deleted for the same reasons as were set forth in part "5)" above.

7) In claim 5, lines 8 and 9, the statement information received from said remote television programming source" is indefinite because a step for receiving the information has not been previously recited. Further, it is not clear how this step of "selectively inputting" relates to the other recited steps so as to comprise the method of lines 1-5.

8) Lines 10 and 11 of claim 5 required the same clarification set forth for lines 15 and 16 of claim 1.

9) In claim 5, line 12, "units of television programming from said transmission station" has no antecedent basis and is indefinite because it is not clear how/whether it relates to the "received programming" of lines 6 and 7.

10) In claim 5, lines 14 and 15, the term "scheduled units of television programming" is indefinite because it is not clear in what step such units were "scheduled" and provided.

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11) As set forth for claim 1 (see part "12" above), claim 5 is incomplete because it fails to establish any relationships between respective ones of the recited steps and thus it is not clear how the recited steps cooperate to achieve the method recited in line 5.

12) In claim 5, lines 16 and 17, the statement "to be used in communicating said scheduled unit" has no antecedent basis and is indefinite because the recited "scheduled units" (i.e. recited in lines 14 and 15) do not appear to be the same as the units which are to be "communicated" (i.e. recited in lines 12 and 13) and/or claim 5 at least fails to positively set forth such a relationship. Similar clarification is needed in claim 1.

13) In claim 10, line 7, "said control signal" does not have clear antecedent basis (i.e. "said" should be deleted). Similar clarification is needed in line 9.

14) In claim 10, line 3, "one of" should be changed to read -- both -- in view of lines 11-15.

15) In claim 20, line 15, the term "each scheduled unit of programming" does not have clear antecedent basis and is indefinite.

16) In claim 20, line 21, the term "at least some units of programming" does not have clear antecedent basis and is indefinite because it is not clear if it refers back to some of said "scheduled units" recited in lines 15-18, to units of

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programming received from the remote sources, or to some other type of units. Clarification is needed.

17) In claim 20, line 23, "said programming units" has multiple antecedent basis and is indefinite because it is not clear if it refers back to the units of line 21, those of line 15, or to some other units. Clarification is also needed to establish antecedents for the recitation "received by said switch" in lines 23 and 24 (i.e. in what recited step where units "received by said switch"?)

18) In claim 20, line 24, the statement "those units received from the remote programming sources" has no antecedent basis and is indefinite.

19) In claim 20, lines 25 and 26, "the specific remote programming sources ..." has no antecedent basis and is indefinite.

20) In claim 20, line 21, "said storage device" has multiple antecedents when referred back to the device of line 10 and to the device of line 5. Clarification is required.

21) In claim 20, lines 28 and 29, "selected units ... previously stored in said storage device" has no antecedent basis and is indefinite because it is not clear in what step the units were previously "selected" and "stored".

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22) In claim 20, line 29, the term "selected units ... received at the input channels of said switch" does not have clear antecedent basis and is indefinite.

23) In claim 26, lines 17 and 18 are indefinite because it is not clear a. in what step "scheduled" units of programming were stored on the player/recorder, b. it is not clear in what step the stored units were "scheduled", and c. it is not clear in what step the stored scheduled units were designated said "scheduled communication time". Clarification is required.

24) In claim 26, lines 24 and 25, "the output channel designated by the programming schedule" does not have clear antecedent basis and is indefinite.

25) In claim 28, lines 3 and 4, are confusing in view of the recitations of lines 5, 8, and 9. Clarification is required.

26) In claim 28, line 11, the term "scheduled control instructions" is indefinite because a step for scheduling instructions has not been recited (i.e. it is not clear how and in what step "scheduled" instructions were provided.

27) In claim 28, line 12 is indefinite because it is not clear of what means "input channel" belongs. Similarly, in line 13, it is not clear by what means the instruction "will be received". Clarification is needed.

28) In claim 28, line 14 is confusing because it is not clear from what said control instructions are "received".

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29) In claim 28, lines 15-23 are indefinite because the claim fails to relate the steps recited in these lines to the steps previously recited in lines 8-14. Being such, it is not clear how the steps recited in lines 8-23, taken together positively set forth steps needed to achieve the method of controlling as alleged in lines 1-7 (i.e. the claim appears to be incomplete).

30) Claims 2-4, 6-9, 11-19, 21-25, 27, and 29-52 required clarifications similar to those exemplified above.

3. Applicant is asked to review the claims and to correct any section 112 problems which are similar to those exemplified above.

4. A. Eichelberger has been cited because it illustrates an "intermediate station" (elements 1-3 of figure 1) which is coupled between at least one remote information provider and one subscriber and which further includes:

1) means for receiving and storing video segments supplied from the information provider(s) (i.e. disk units of figure 3); and

2) a control unit (21 of figure 2) which retrieves stored video segments from specified memory locations and transmits the retrieved segments to the subscriber(s) at specified times and on specified channels as determined in accordance with the configuration of switch 26.

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5. In view of the extensive section 112 problems cited above, the examiner maintains that application of the art of record against the claims is improper at this time.

6. The examiner further notes that the "prior art" cited in the parent applications of the present application was not available to the examiner at the present time. However, this prior art will be considered when it becomes available.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Harvey whose telephone number is (703) 305-4365.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

David E. Harvey/skf
September 14, 1994

David E. Harvey
D.E.H.
Examiner
Group 2602